

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

XTREME CAGED COMBAT, ET AL.,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	NO. 12-cv-3855
	:	
ECC FITNESS (AKA EXTREME CAGE	:	
COMBAT), ET AL.,	:	
	:	
Defendants.	:	

**ORDER**

AND NOW, this 12th day of November 2013, upon consideration of Plaintiff's Motion for Summary Judgment (Doc. No. 34) and Reply in Support thereof (Doc. No. 38) which were renewed by Order of this Court (Doc. No. 50), as well as Defendants' Response to Plaintiff's Motion for Summary Judgment (Doc. Nos. 36 and 37), the Court GRANTS in part and DENIES in part Plaintiff's Motion for Summary Judgment. It is hereby ORDERED as follows:

(1) The Court finds that genuine issues of material fact exist as to whether Plaintiff's mark is suggestive, descriptive or generic and, if descriptive, whether it has acquired secondary meaning. The Court DENIES summary judgment to Plaintiff on this issue.

(2) The Court finds that genuine issues of material fact exist as to whether Plaintiff owns the mark in relation to MMA fight promotion services, and as to general fitness services. The Court DENIES summary judgment to Plaintiff on the issue of

ownership of the mark.

(3) The Court finds that Defendants' use of their mark is likely to create confusion. Summary judgment is GRANTED to Plaintiff on this point.

(4) Summary judgment is GRANTED to Plaintiff on all of Defendants' counterclaims, and these claims are dismissed.

The issues on which the Court has denied summary judgment, as well as any applicable damages, are left for resolution at trial.

BY THE COURT:

s/J. Curtis Joyner

J. CURTIS JOYNER, J.